

R590. Insurance, Administration. Effective 10-7-94**R590-133. Variable Contracts.****R590-133-1. Authority.**

This rule is adopted pursuant to Subsection 31A-2-201(3) which authorizes rules to implement the Insurance Code and 31A-5-217.5(6) which gives the commissioner authority to regulate by rulemaking the issuance and sale of variable contracts.

R590-133-2. Definition.

A. The term "variable contract," shall mean any policy or contract which provides for life insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to the policy or contract, as provided for in Sections 31A-5-217 and 31A-18-102.

B. "Agent," when used in this rule, shall mean any person licensed as an agent, broker or consultant under the laws of this state.

C. "Variable contract agent," when used in this rule, shall mean an agent, broker and consultant who is licensed to sell or offer to sell any variable contract.

R590-133-3. Qualification of Insurance Companies to Issue Variable Contracts.

No company may deliver or issue for delivery variable contracts within this state unless it is licensed or organized to do a variable life, annuity, or both, business in this state in accordance with Section 31A-20-106.

R590-133-4. Governance of Separate Accounts.

All separate accounts shall be governed specifically by Sections 31A-5-217; 31A-5-217.5; 31A-18-102; 31A-20-106; 31A-21-301 and 31A-22-411 and this rule. They shall be governed generally by the provisions of the code applicable to life insurance companies not explicitly exempted by the code.

R590-133-5. Required Reports.

A. Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contract holder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account.

B. The company shall submit annually to the Insurance Commissioner a statement of the business of its separate account or accounts in a form as may be prescribed by the National Association of Insurance Commissioners.

C. Any company issuing individual variable contracts shall mail to the

contract holder, at least once in each contract year after the first, at his last address known to the company, a statement reporting as of a date not more than four months previous to the date of mailing:

(1) in the case of an annuity contract under which payments have not yet commenced:

(i) the number of accumulation units credited to the contract and the dollar value of a unit; or

(ii) the value of the contract holder's account; and

(2) in the case of a life insurance policy, the dollar amount of the death benefit.

R590-133-6. Foreign Companies.

If the law or rule in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with the law or rule as compliance with this rule.

R590-133-7. Licensing of Agents, Brokers and Consultants.

No agent, broker or consultant may be eligible to sell or offer for sale a variable contract unless prior to making any solicitation or sale, he is licensed as a variable contract agent.

The licensing as a variable contract agent may not become effective until satisfactorily completing the following requirements:

(1) be licensed in the line of life insurance;

(2) evidence that the applicant has previously passed National Association of Security Dealers examinations series six or seven and 63. Approval of registration to take the examinations is not acceptable;

(3) evidence of being Utah approved from the National Association of Securities Dealers, Central Registration Depository;

(4) if the applicant is a non-resident, requirements of the state of domicile may be acceptable; and

(5) every application for a license as a variable contract agent shall be accompanied by the appropriate fee designated in the fee schedule adopted by the legislature.

R590-133-8. Additional Provisions Applicable to Variable Contract Agents.

A. Any person licensed in this state as a variable contract agent shall immediately report to the commissioner:

- (1) any suspension or revocation of his variable contract agent's license or life insurance agent's license in any other state or territory of the United States;
- (2) the imposition of any disciplinary sanction imposed upon him by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over securities or contracts on a variable basis;
- (3) any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or rule.

B. The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract agent's license upon any ground that would bar the application or agent from being licensed to sell life insurance contracts in this state. The statutes governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable contract agent's license.

C. Renewal of a variable contract agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this state.

R590-133-9. Disclosure.

- (A). The following information shall be furnished to an applicant for a contract of variable life insurance prior to execution of the application:
- (1) a summary description of the insurance company and its principal activities;
 - (2) a summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account;
 - (3) a brief description of the investment policy for the separate account with respect to the contract;
 - (4) a list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the commissioner of the state of domicile; and
 - (5) summary financial statements of the insurance company and the separate account based upon the last annual statement filed with the commissioner, except that for a period of four months after the filing of any annual statement the summary required may be based upon the annual statement, immediately preceding the last annual statement, filed with the commissioner. The insurance company may include any additional information as it deems appropriate.

R590-133-10. Severability.

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provisions may not be affected.

KEY: insurance law

199431A-2-201

31A-5-217.5

[\[Back to Top\]](#)